



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF M-, INC.

DATE: MAR. 20, 2018

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a wholesaler of men's suits, seeks to employ the Beneficiary as a computer and information systems specialist. It requests classification of the Beneficiary as a member of the professions holding an advanced degree under the second preference immigrant classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). This employment-based immigrant classification allows a U.S. employer to sponsor a professional with an advanced degree for lawful permanent resident status.

The Director of the Nebraska Service Center denied the petition on the ground that the record does not establish that the Beneficiary has a U.S. master's or bachelor's degree, as required by the labor certification, and therefore does not meet the minimum educational requirement for the job offered. The Petitioner filed an appeal, which we dismissed on the same ground.

The matter is now before us on a motion to reopen and a motion to reconsider. Once again the Petitioner asserts that the Beneficiary has the requisite education to meet the terms of the labor certification. Upon review we will deny the motions.

I. LAW

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must establish that our decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). A motion to reconsider must be supported by a pertinent precedent or adopted decision, statutory or regulatory provision, or statement of U.S. Citizenship and Immigration Services (USCIS) or Department of Homeland Security (DHS) policy. *Id.* We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

II. ANALYSIS

At issue here is whether the Beneficiary's educational degree meets the terms of the labor certification, as required for the petition to be approved. *See Matter of Wing's Tea House*, 16 I&N Dec. 158 (Act. Reg'l Comm'r 1977). In section H of the labor certification the Petitioner stated that

the minimum level of education required for the job offered is a bachelor's degree in electronics & computer engineering or in computer science (boxes H.4 and H.4-B) and that a foreign educational equivalent was not acceptable (box H.9). The record shows that the Beneficiary has a four-year bachelor of science in electronics and communications engineering from a Philippine university, the [REDACTED] and that this degree is equivalent to a bachelor's degree in electronics and communications engineering from a U.S. college or university. Since a foreign educational equivalent is not acceptable under the terms of the labor certification, however, the Director denied the petition on the ground that the Beneficiary's Philippine degree did not satisfy the labor certification's minimum educational requirement. We affirmed this decision on appeal.

A. Motion to Reopen

The Petitioner does not state any new facts or submit any new evidence in support of its motion. The Petitioner reiterates its previous contention that the Beneficiary's degree from the [REDACTED] meets the educational requirement of the labor certification, and refers to previously submitted documentation. For the reasons discussed in our previous decision, this documentation does not establish that the Beneficiary met the minimum educational requirement of the labor certification. Since no new facts or documentary evidence are submitted, we will deny the motion to reopen.

B. Motion to Reconsider

The Petitioner does not identify any incorrect application of law or policy in our previous decision, and does not show how our decision was incorrect based on the evidence in the record of proceedings at the time of the decision. Nor does the Petitioner cite any precedent or adopted decision, any statutory or regulatory provision, or any statement of policy by USCIS or DHS in support of its motion. Since the Petitioner has not presented any grounds for reconsideration of our previous decision, we will deny the motion to reconsider.

III. CONCLUSION

The Petitioner has not shown proper cause for reopening or reconsideration, nor established eligibility for the immigrant benefit sought.

ORDER: The motion to reopen is denied.

FURTHER ORDER: The motion to reconsider is denied.

Cite as *Matter of M-, Inc.*, ID# 1111289 (AAO Mar. 20, 2018)